

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**SPECTRUM LABORATORIES,  
LLC., an Ohio Limited Liability  
Company,**

*Plaintiff,*

**V.**

**ROYAL FRAGRANCES LLC d/b/a  
CITY SUPPLY WHOLESALE;  
SA & AP INVESTMENTS, LLC;  
TREK THE WORLD LLC; LEGACY  
ECOM LLC; NAGARIA USMAN  
GHANI LLC; PRECISION  
TECHNOLOGY CONSULTING,  
LLC; SAIF ALI; MOHD LODI; AFEE  
PARPIA,**

*Defendants.*



**CIVIL ACTION NO. 4:22-CV-03705**

## JURY DEMAND

**JUDGE CHARLES ESKRIDGE**

**PLAINTIFF’S MOTION FOR  
LEAVE TO FILE FIRST AMENDED COMPLAINT**

This is a counterfeiting case under the Lanham Act. **SPECTRUM LABORATORIES, LLC** (hereinafter “Plaintiff” or “Spectrum”) files this Motion for Leave to File First Amended Complaint and respectfully states the following:

## SUMMARY

Spectrum requests leave to amend its complaint to assert claims against unknown parties DOES #1-10. Justice and efficiency require that DOES #1-10 be joined so that these claims can be resolved against the proper parties. Therefore, Plaintiff respectfully request leave to amend to assert these claims.

## **BACKGROUND**

Spectrum is the owner of U.S. Trademark Registration No. 4453892 (the “892 Registration”) for the Quick Fix trademark (the “Quick Fix Mark”). Spectrum is also the owner of U.S. Trademark Registration No. 5791421 (the “421 Registration”) for the Q design mark (the “Q-Clock Mark”). Spectrum filed this lawsuit when it discovered that counterfeits of its QUICK FIX product were being sold by Royal Fragrances LLC d/b/a City Supply Wholesale (“RF”). Spectrum originally named as defendants the individuals and businesses that Spectrum believed were associated with the City Supply business, namely RF, SA & AP Investments, LLC, Trek the World LLC, Legacy Ecom LLC, Nagaria Usman Ghani LLC, Precision Technology Consulting, LLC, Saif Ali, Mohd Lodi, and Afee Parpia (the “Original Defendants”). After RF was served, RF’s attorney advised Spectrum that RF had no knowledge that it was selling counterfeits, RF stopped selling the products, and RF agreed to cooperate with Spectrum to help identify the source of the counterfeits that RF purchased (believing they were genuine) and then resold in the market. Spectrum voluntarily dismissed Defendants RF, Saif Ali, SA & AP Investments LLC, and Legacy Ecom LLC [*See* Doc. 28] because RF’s owner provided a sworn affidavit disclaiming any prior knowledge of the counterfeiting.

RF has stated that it obtained QUICK FIX from three different suppliers. Thus, the counterfeits either originated from or flowed through one or more of those suppliers. At this time, Spectrum does not know through which of the suppliers the counterfeits flowed, nor does it know whether any of the suppliers were complicit in or knowledgeable about the counterfeits. Rather than prematurely naming additional parties

as defendants, Spectrum requests this amendment to its complaint to identify the unknown counterfeiters as DOE defendants. To this end, Spectrum will seek authorization from the Court to issue subpoenas and take discovery to determine the true identities of the DOE defendants and will substitute the responsible parties into this case as appropriate. The proposed Amended Complaint is attached as **Exhibit 1**.

**LEAVE TO AMEND SHOULD BE GRANTED**

Spectrum requests leave under Rule 15 of the Federal Rules of Civil Procedure. FED. R. CIV. P. 15(a)(2). Under Rule 15, “[t]he court should freely give leave when justice requires.” *Id.* In evaluating a motion for leave, the Court considers whether: (1) there has been undue delay in seeking leave to amend; (2) the movant has acted in bad faith or with a dilatory motive; (3) there have been repeated failures to cure deficiencies under previous amendments; (4) the opposing party will suffer undue prejudice as a result of the amendment; and (5) filing the amendment would be futile. *Smith v. EMC Corp.*, 393 F.3d 590, 595 (5th Cir. 2004). In the absence of any of these factors, leave to amend should be granted. *Foman v. Davis*, 371 U.S. 178, 182 (1962).

Here, none of these factors weigh against granting leave. This case is still in an early stage of the proceedings. No defendants have answered. No discovery has yet been taken. No scheduling order has been entered, and there are no pending motions. This amended pleading will be the first, and its purpose is to join DOES #1-10 to these proceedings in light of new information obtained by Plaintiff from some of the Original Defendants.

The remaining Original Defendants and the DOE defendants will not suffer any undue prejudice as a result of Plaintiff amending its pleadings at this time. None have appeared or answered. Moreover, adding the DOE defendants does not change the causes of action or the fundamental facts, and the causes of action that remain are supported under the law and arise out of the same underlying facts and circumstances as the existing claims in this case. No just reason exists to deny leave to amend, and Spectrum respectfully requests that this motion be granted.

### **CONCLUSION**

For all the reasons discussed above, Plaintiff Spectrum Laboratories, LLC requests leave of Court to file its First Amended Complaint (Ex. 1) pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, and that it be granted all further relief to which it is entitled.

DATED: January 16, 2023

Respectfully submitted,

By: /s/ David B. Cupar

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**SPECTRUM LABORATORIES, LLC**

**CERTIFICATE OF CONFERENCE**

No defendant in this lawsuit has appeared. Defendants RF, Saif Ali, SA & AP Investments LLC, and Legacy Ecom LLC have been voluntarily dismissed. The remaining Original Defendants either have not been served or have not answered. The DOE #1-10 defendants have not been (and cannot be) served. As such, counsel was unable to confer with any opposing counsel as these defendants have not made an appearance and/or been located.

/s/ Courtney Ervin  
Courtney Ervin

**CERTIFICATE OF WORD COUNT**

In accordance with Section 18(c) of the Court's procedures, I certify that this document contains 763 words, exclusive of the caption, signature block and certificates of service and conference.

/s/ Courtney Ervin  
Courtney Ervin

**CERTIFICATE OF SERVICE**

Service of this document on all counsel was accomplished automatically through the Court's Notice of Electronic Filing on this, the 16th day of January, 2023.

/s/ Courtney Ervin  
Courtney Ervin